

**PLANNING AND ZONING COMMISSION
MINUTES
EXECUTIVE SESSION/GENERAL MEETING
January 6, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti read the following agenda item:

Executive Session to discuss pending litigation.

The Commission conducted an Executive Session with Attorney James D'Alton Murphy of Curtis Brinckerhoff & Barrett and Director of Planning Jeremy Ginsberg and Assistant Director David Keating. The motion to go into Executive Session to discuss pending litigation was made by Mr. Bigelow and seconded by Mr. Spain. During Executive Session, no motions were made and no actions were taken. The Executive Session was concluded at 9:00 p.m. The public was invited to enter the meeting room.

The General Meeting started at 9:00 p.m. Chairman Damanti read the following agenda item:

Mandatory Referral, Board of Selectmen, lease of property to Darien Boat Club, Pear Tree Point Beach.

Requested amendment to the existing lease, involving the addition of the dinghy area to the lease and an increase in the Boat Club's responsibilities for oversight of the new area for the temporary storage of public boats.

Mr. Damanti stepped out of the meeting and did not participate in order to avoid any potential conflict of interest. Mr. Conze acted as Chair regarding this agenda item. The Commission members noted that the desired amendment of the lease appeared to be consistent with the Town Plan of Development and the policies of the Town. Mr. Ginsberg noted that the Park & Recreation Commission had approved the lease amendment and the Board of Selectmen have indicated their approval of the amendment as well. Mr. Spain said that the proposed modifications are consistent with the practices and policies. The following motion was made: that the Commission indicate its support for the proposed modifications of the lease with the Darien Boat Club and that a positive response to the Mandatory Referral be forwarded to the Board of Selectmen. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

Mr. Damanti returned to the room and resumed his role as Chairman. He read the following agenda item:

Mandatory Referral, Board of Selectmen, extension of lease to Darien United Way, 701 Boston Post Road.

Requested amendment to the existing Darien United Way lease for a ten (10) year extension with no other changes in the terms.

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All of the Commission members were in favor of the proposed extension of the lease to the Darien United Way for the Town property located at 701 Boston Post Road. The following motion was made: that the Commission forward a favorable report regarding the Mandatory Referral from the Board of Selectmen. The motion was made by Mr. Conze, seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the following agenda item:

Requested Modification of Coastal Site Plan Review #130-A, O&J Investments, LLC, 40 Old Farm Road.

Requested approval of modified driveway access.

The Commission members noted that the litigation regarding this application had been discussed during the earlier Executive Session. The property owner and adjacent neighbor have come to an agreement which is acceptable to the Planning & Zoning Commission and, therefore the plaintiff (who had appealed the Commission's decision) is willing to withdraw the pending litigation. The requested modifications are slight changes to the driveway configuration leading from Old Farm Road to the rear lot at 40 Old Farm Road. The following motion was made: that the Commission authorize the modifications of the Coastal Site Plan Review approval and also authorize the Town Attorney to accept and process the necessary paper work regarding the withdrawal of the pending litigation. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

Requested Modification of Adopted Resolution for Subdivision Application #587-A, Henderson/Fritts, 44 Goodwives River Road.

Request to modify adopted resolution regarding schedule of required driveway improvements.

Mr. Ginsberg summarized the request by indicating that the site improvements, particularly the modifications to the existing driveway, were required to be completed by January of 1998 and prior to any zoning permits being issued for the additions or alterations to the structures. The applicant never undertook the work to improve the driveways and, therefore was not in compliance with the January 1998 deadline. In a letter dated December 12, 2003, Attorney Wilder Gleason, on behalf of the property owners, as requested, that the Commission modify the approval to give the property owner additional time to complete the driveway improvements. The only modification of the plan is the timing of the improvements, not the details of how the improvements will be made. The Commission members discussed the situation and the following motion was made: that the Commission authorize the amendment of the Subdivision to give additional time for the completion of the driveway improvements. The motion was made by Mr. Conze, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

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Requested Modification of Coastal Site Plan Review #181, Flood Damage Prevention Application #191, Vanda McGlade Baker, 99 Nearwater Lane.

Request to modify architectural plans; eliminate swimming pool; and add a small fieldstone retaining wall.

Revised plans were discussed and the Commission noted that the proposed work does not involve quite as much work as the original approval. Even though the modifications are minor, they are changes to a very specific Site Plan approval and Flood Damage Prevention approval and, therefore require action by the Commission. The following motion was made: that the Commission approve the requested modifications of the Site Plan to modify the building design, eliminate the swimming pool, and add a small fieldstone retaining wall in accordance with the revised submitted plans. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

Chairman Damanti read the following agenda item:

Subdivision Application #603, David & Sabina Harris, 1749 Boston Post Road.

Request for an additional 30 days to prepare final maps and Open Space Declaration.

Mr. Ginsberg explained that the applicant had not yet finalized the construction drawings and plans and has therefore asked for an extension to complete the project as approved by the Commission. The following motion was made: that the Commission approve the requested extension for the filing of the final paperwork. The motion was made by Mr. Bigelow, seconded by Mr. Conze and unanimously approved.

Chairman Damanti read the following agenda item:

Coastal Site Plan Review #188, Flood Damage Prevention Application #199, Land Filling & Regrading Application #106, Foster Kaali-Nagy, 59 Five Mile River Road. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each Commission member has received the draft Resolution prior to the meeting and has had an opportunity to review the draft in preparation for the meeting. The motion was made by Mr. Conze, seconded by Mr. Bigelow and unanimously approved.

In the discussion to follow, the Commission members noted that the size of the house has been substantially reduced from the original proposal and that the height of the retaining wall has been significantly reduced from the original proposal. These modifications were discussed at the Public Hearing and are reflected on the revised drawings and plans. The following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as detailed in the Resolution:

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Application Number: Coastal Site Plan Review #188
Flood Damage Prevention Application #199
Land Filling & Regrading Application #106

Street Address: 59 Five Mile River Road
Tax Assessor's Map #66 Lot #10

Name and Address of Applicant: Philip J. Toohey, Esq.
and Applicant's Representative: Lampert, Williams & Toohey
46 Main Street
New Canaan, CT 06840

Name and Address of Property Owner: Foster Kaali-Nagy
70 Pine Street
New Canaan, CT 06840

Activity Being Applied For: Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas.

Property Location: The subject property is on the northeast side of Five Mile River Road, approximately 170 feet east of its intersection with Berry Lane.

Zone: R-1/2 Zone

Date of Public Hearing: September 23, 2003 continued to
October 28, 2003 continued to November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820 and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application consists of razing the existing residence and constructing a new single-family residence and performing related site development activities within regulated areas. The new residence will be served by public water and Town sewer. The subject .18+/- acre property is adjacent to the Five Mile River, and a portion of the property is in the floodplain.
2. The Environmental Protection Commission (EPC) approved this application on November 5, 2003 (EPC #93-2003). The Zoning Board of Appeals (ZBA) granted a variance for this project on October 15, 2003 (Calendar No. 69-2003). Each of those approvals is hereby incorporated by reference.
3. Plans originally submitted to the Commission showed a 7+/- foot high retaining wall near the Five Mile River. This design was not acceptable. Revised plans were prepared and presented to the Commission in November, reflecting the conditions imposed by the EPC and ZBA, and a 2+/- foot high retaining wall. The revised plans also reflect a smaller building design and no living space in the attic area.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
6. In accordance with the submitted information, the proposed activities will have no adverse impacts on flooding on adjacent properties. Although some of the regrading and soil stabilization work and the garage level will be in the Flood Hazard Area, the first floor of the house will be elevated above the Flood Hazard Area.
7. The Commission finds that the proposed activities, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #188, Flood Damage Prevention Application #199 and Land Filling and Regrading Application #106 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction of the new residence and associated regrading shall be in accordance with the following plans as required to be modified herein:
- “Plan Prepared for Foster Kaali-Nagy, Site Development Plan, 59 Five Mile River Road”, by McChord Engineering Associates, Inc., scale 1”=10’, dated August 11, 2003 and last revised 11-12-03. Drawing SE-1.
 - Proposed Residence 59 Five Mile River Road, by Alex Kaali-Nagy, AIA, scale 3/16”=1’0”, dated 08/08/03, and last revised 11/07/03. Sheets A-1 (Proposed Floor Plans), A-2 (Proposed Elevations), and A-3 (Proposed Elevations and Building Section).

These plans reflect the revised grading plan, reduced height of retaining wall and scaled back house design.

- B. The floor plans shall be modified to reflect that the area shown as “unfinished basement” shall be labeled and designed as either part of the garage, or as a crawl space, as this area is at elevation 8.0, which is within the flood zone. Basements are not allowed in the flood zone.
- C. Prior to the request for the Zoning Permit for the construction of the new residence, the applicant or owner shall submit certification from a licensed architect or professional engineer that the foundation and garage level structures have been designed to withstand all flood forces and comply with the flood damage prevention requirements for structural stability. Once the foundation and garage level have been installed, the applicant shall submit an ‘as built’ survey to verify compliance with the setback requirements and written verification from the architect or engineer that construction has been performed in accordance with the approved plans and the Flood Damage Prevention Regulations.
- D. Once each structure is built, and prior to occupancy or the request for a Certificate of Zoning Compliance, the applicant shall submit verification from the project engineer that all aspects of the construction, site regrading, surface and subsurface storm water drainage patterns, and utility installation have been completed in compliance with the approved plans.
- E. The applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. The EPC has required a performance bond for the work along the river. Because of the minor nature of the land filling and regrading portion of this project, the need for an additional performance bond for the Planning & Zoning Commission is hereby waived.
- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating

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agencies. This includes, but is not limited to, a curb cut/street opening permit from the Darien Public Works Department.

- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to implementation of the approved plan within one year of this action (January 5, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Revised plans and the filing of a Special Permit form in the Darien Land Records shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

The motion was made by Mr. Bigelow, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

Land Filling & Regrading Application #111, Park & Recreation Commission, Cherry Lawn Park--120 Brookside Road. Proposing to fill and regrade to expand Casey Field and perform related site development activities. The Cherry Lawn Park property is on the east side of Brookside Road directly across from its intersection with Overbrook Road, and is shown on Tax Assessor's Map #11 as Lot #31, R-1 Zone.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member had received the draft prior to the meeting and has had an opportunity to review it in preparation for the meeting. The motion was made by Mr. Conze, seconded by Mr. Bigelow and unanimously approved.

The Commission members discussed the submitted plans and questioned the number of trees to be removed to allow for the expansion of the field. There was some discussion about the colored version of the drawings versus the black & white copies. The Commission members thought it might be possible to shift the field slightly at an angle so that some of the trees in the southeast corner might be saved. Other Commission members noted that the existing trees on the west side of the field and the grades to the north of the field will probably not allow the field to be reoriented enough to save the trees in the southeast corner.

Rather than taking an action on the matter, the Commission members asked Director of Planning Jeremy Ginsberg to more carefully review the plans to see if it might be possible to reorient the plans slightly to save trees in the southeast corner. The matter will be placed on the agenda of the January 13th meeting.

Chairman Damanti read the following agenda item:

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Business Site Plan #94-A/Special Permit, BNR Vet Enterprises, 1302 Boston Post Road.

Proposal to construct additions and alterations to the existing building, create additional parking area, and perform related site development activities.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member received a copy of the draft prior to the meeting and had an opportunity to review it in preparation for the meeting. The motion was made by Mr. Bigelow, seconded by Mr. Spain. After a brief discussion, the following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations contained in the resolution.

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ADOPTED RESOLUTION
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Application Number: Business Site Plan #94-A/Special Permit

Street Address: 1302 Boston Post Road
Tax Assessor's Map #63 Lots #2-3 and #4-5

Name and Address of Applicant: BNR Veterinary Enterprises
and Property Owner: 2053 West Main Street
Stamford, CT 06902

Name and Address of Applicant's Representative: William Andriopoulos
Andriopoulos Design Associates, LLC
32 Main Street
Norwalk, CT 06851

Activity Being Applied For: Proposal to construct additions and alterations to the existing building, create additional parking area, and perform related site development activities.

Property Location: The subject properties are located on the southeast side of Boston Post Road approximately 200 feet south of the interchange 11 northbound on-ramp to I-95.

Zone: SB Zone

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 6, 2004

Action: APPROVED WITH CONDITIONS

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Scheduled Date of Publication of Action:
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Newspaper: Darien News-Review

- the proposed use and activities must comply with all provisions of Sections 660, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- A. This project is to construct additions and alterations to the existing building, create additional parking area, and perform related site development activities. The applicant proposes to demolish approximately 400 square feet of the existing building (portions of the front) and construct a 900 square foot addition onto the side of the building. The subject properties consist of two 100' x 90' parcels, which will be consolidated as part of this proposal.
- B. The existing veterinary office within the building has 6-8 parking spaces. This proposal will increase the number of parking spaces to 19, with five of those being in front of the existing building. The Commission hereby finds that the 19 parking spaces are adequate for this use, per Section 904t of the Darien Zoning Regulations. As part of this application, the applicant proposes to modify the existing parking lot to eliminate the backing into Boston Post Road, and establish a landscaped buffer along the road.
- C. The Architectural Review Board reviewed the application at its October 21, 2003 meeting. At that time, they approved the concept of the design. Formal approval was granted at its December 19, 2003 meeting.
- D. The Zoning Board of Appeals approved this project on November 19, 2003 (Calendar No. 88-2003). That decision is hereby incorporated by reference.
- E. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
- F. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

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- G. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
- H. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
- I. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #94-A/Special Permit is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- 1. Construction of the additions, alterations, and the additional parking area shall be in conformance with the plans entitled:
 - Plot Plan of Property prepared for BNR Veterinary Enterprises, LLP, 1302 Boston Post Road by Arcamone Land Surveyors, scale 1"=10', dated Oct. 10, 2003 (received Nov. 17, 2003).
 - BNR Veterinary Enterprises, Darien Veterinary Clinic 1302 Boston Post Road, by ADA Architects, scale 1/8"=1'-0", Drawing A-1 Proposed First Floor Plan and Site Development Plan dated 03/06/03 and last revised to 11/19/03; Drawing A-2 Second Floor Plan dated 03/06/03 and last revised to 11/19/03; Drawing A-3 Proposed Exterior Elevations dated 10/1/03 and last revised to 11/10/03.
 - Darien Veterinary Clinic Site Plan, by Grumman Engineering LLC, scale 1/8"=1'-0", Sheet 1 of 2, last revised 10-16-03.
 - Darien Veterinary Clinic Site Construction Details, by Grumman Engineering LLC, Sheet 2 of 2, dated 10-8-03.
- 2. A Mylar map shall be filed in the Darien Land Records consolidating the two existing parcels (Lots #2-3 and #4-5) into one parcel. Prior to the filing, the Tax Assessor should be consulted regarding the new Lot number.
- 3. Care must be taken by the operators of the veterinary facility to assure that noise and/or odors from the animals are not a nuisance to the adjacent properties, some of which are located in a residential (rather than business) zone.
- 4. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the

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sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

5. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
6. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
7. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (January 5, 2005). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action, including the filing of a Mylar map to combine the parcels and a Special Permit form in the Darien Land Records, or this approval shall become null and void.

The motion to approve the project was made by Mr. Conze and seconded by Mrs. Forman. Voting in favor were Misters Conze, Spain, Damanti and Mrs. Forman. Mr. Bigelow abstained because he had not attended the Public Hearing and has not had an opportunity to review the audiotape on this matter. The motion to approve the project was passed by a vote of 4 to 0 to 1.

Chairman Damanti read the following agenda item:

Special Permit Application #35-B, Coastal Site Plan Review #79-A, Flood Damage Prevention Application #68-A, Land Filling & Regrading Application #112, Noroton Yacht Club, 23 Baywater Drive. Proposal to demolish the existing wooden deck and canopy and storage shed, and construct a new tennis shack with deck and canopy, raised landscaped area and ramp, extend the existing practice court and perform related site development activities within regulated areas.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has received the draft and has had an opportunity to review it in preparation for the meeting. The motion was made by Mr. Bigelow, seconded by Mr. Conze and unanimously approved. After a brief discussion, the following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions contained within the Resolution:

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Application Number: Special Permit Application #35-B
Coastal Site Plan Review #79-A
Flood Damage Prevention Application #68-A
Land Filling & Regrading Application #112

Tax Assessor's Map #55 Lots #80-84

Name and Address of: Noroton Yacht Club, Inc.
Property Owner: 23 Baywater Drive
Darien, CT 06820

Name and Address of Applicant Robert Young Associates, Architects
And Applicant's Representative: PO Box 1721
Darien, CT 06820

Activity Being Applied For: Proposal to demolish the existing wooden deck and canopy and storage shed, and construct a new tennis shack with deck and canopy, raised landscaped area and ramp, extend the existing practice court and perform related site development activities within regulated areas.

Property Location: Subject property is located on the north and west sides of Baywater Drive, approximately 300 feet east of its intersection with Plymouth Road.

Zone: R-NBD Zone

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose

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testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- A. The Noroton Yacht Club proposes to demolish the existing wooden deck and canopy and storage shed, and construct a new 12 1/2' x 24' tennis shed/shack with deck and canopy, raised landscaped area and ramp, extend the existing practice court and perform related site development activities within regulated areas. The Club is a Special Permit use within the R-NBD Zone.
- B. The deck will be the same level as present, and the peak of the roof of the new tennis shack will be at elevation 19.1 above MSL. The tennis courts are currently not lighted, and no proposal has been made to light them. The viewing area will be a pervious surface, either grass or gravel.
- C. The Architectural Review Board approved this project on July 15, 2003. The Zoning Board of Appeals granted variances for this project as part of Calendar No. 67-2003 on October 15, 2003. Both of those approvals are incorporated by reference.
- D. The proposed activities, as modified herein, will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.
- E. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
- F. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
- G. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
- H. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.
- I. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

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- J. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #35-B, Coastal Site Plan Review #79-A, Flood Damage Prevention Application #68-A and Land Filling & Regrading Application #112 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

1. Construction shall be in accordance with the plans entitled:
 - Zoning Location Survey depicting Proposed Tennis Shed Noroton Yacht Club Baywater Drive, by Redniss & Mead, scale 1"=30', dated 9/10/2003.
 - Partial Plot Plan, Exterior Elevations, Floor Plan, by Robert E. Young Architects, scale as noted, Drawing Number: A-01, dated Aug. 21, 2003.
2. As discussed at the Public Hearing, during the process of landscaping, the Club shall work with the adjacent owners to place the vegetation in the optimum locations to provide the most effective screening possible. The final landscaping to be installed shall be reviewed and acted upon by the Planning and Zoning Director.
3. The granting of these Permits does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
4. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.
5. These permits shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (January 5, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plans by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action, and a Special Permit form filed in the Darien Land Records within that 60 day period, or this approval shall become null and void.

The motion to approve the project was made by Mrs. Forman and seconded by Mr. Spain. Voting in favor was Mrs. Forman and Misters Spain, Damanti and Conze. Mr. Bigelow abstained from voting because he had not attended the hearing and has not had an opportunity to review the audiotape of the hearing. The motion to approve the project was passed by a vote of 4 to 0 to 1.

Chairman Damanti read the following agenda item:

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Special Permit Application #159-B, Darien Doughnut/Doughnut Inn, 364 Heights Road.
Proposing to expand Darien Doughnut/Doughnut Inn into adjacent space and add a counter and seating.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has received the draft prior to the meeting and has had an opportunity to review it in preparation for the meeting. The motion was made by Mrs. Forman and seconded by Mr. Spain and unanimously approved.

After a brief discussion, the following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations within the Resolution:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 6, 2004**

Application Number: Special Permit Application #159-B
Darien Doughnut/Doughnut Inn

Street Address: 364 Heights Road

Tax Assessor's Map #75 Lot #22

Name and Address of Applicant: Phil Santomassi
And Applicant's Representative: 6 Mayflower Road
Darien, CT 06820

Name and Address of : Rocco Palmer
Property Owner: c/o Noroton Heights Shopping Center
Heights Road
Darien, CT 06820

Activity Being Applied For: Proposing to expand Darien Doughnut/Doughnut Inn into adjacent space and add a counter and seating.

Property Location: Subject property is located on the north side of Heights Road approximately 100 feet east of its intersection with Hollow Tree Ridge Road.

Zone: DC

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

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Date of Action: January 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 630, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to expand Darien Doughnut/Doughnut Inn into adjacent space and add a counter and seating. The establishment is a Special Permit use under Section 634c of the Darien Zoning Regulations.
2. The applicant proposes to have a customer accessible entrance from the rear parking lot into the building. The second doorway would provide easy customer access to the large parking area that is on the north side of the building and not adjacent to Heights Road. This will encourage customers to park behind the building, rather than in the front along Heights Road, which is much more dangerous. Creating a second customer access doorway will make it much easier for the customers to park in the back of the building, and this will be a much safer situation.
3. About 200 +/- square feet of new customer space will be provided, and improvements to the kitchen area will be implemented. The applicant proposes to install a counter and up to eight stools at which customers could drink or eat. There will be no wait service or separate tables for customers. No outdoor seating is proposed as part of this application.
4. There are no proposed changes in the hours of operation or the activities approved on-site.
5. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.

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6. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
7. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit #159-B is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the floor plan submitted as part of the application materials.
Final details of the floor plan may be slightly modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official, keeping the overall concept of expansion of the use, with two checkout areas, and seating for up to eight people at a counter no longer than sixteen feet, with a customer accessible rear entrance to the establishment.
- B. Any proposed changes to the signage will require review and action by the Architectural Review Board.
- C. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- D. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- E. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (January 5, 2005). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

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The motion was made by Mrs. Forman, seconded by Mr. Spain. Voting in favor of the motion was Mrs. Forman and Misters Spain, Damanti and Conze. Mr. Bigelow abstained from voting because he had not attended the Public Hearing and has not had an opportunity to review the audiotape. The motion to approve the project was passed by a vote of 4 to 0 to 1.

Chairman Damanti read the following agenda item:

Special Permit Application #233, Quest Diagnostics, 537-557 Boston Post Road. Proposing to establish a clinical laboratory within a portion of the first floor of the existing building.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member of the Commission has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

The Commission members discussed the fact that the facility would not provide medical care or treatment. It would only be used for collection of samples and specimens from patients who had been referred to the facility by a doctor. The following motion was made: that the Commission adopt the following Resolution and approve the project subject to the conditions and stipulations in the Resolution.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 6, 2004**

Application Number: Special Permit Application #233

Street Address: 537-557 Boston Post Road

Tax Assessor's Map #14 Lot #36

Name and Address of Applicant: Quest Diagnostics
3 Sterling Drive
Wallingford, CT 06492

Name and Address of Property Owner: Sam Grasso Revocable Trust
PO Box 2152
New Smyrna Beach FL 32170

Name and Address of Applicant's Representative: Cindy Kreutzberg
Designs By Cindy
335 Rosebrook Drive
Stratford, CT 06614

Activity Being Applied For: Proposing to establish a clinical laboratory within a portion of the first floor of the existing building.

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Property Location: Subject property is located on the northwest side of Boston Post Road approximately 550 feet east of its intersection with Brookside Road.

Zone: DB-2

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
January 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 620, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds

1. The clinical blood drawing and specimen collection service site will be in the first floor of the existing building, in the space formerly occupied by a photo lab. This is considered a Personal Services Use, which is allowed by Special Permit in the DB-2 Zone under Section 624c of the Darien Zoning Regulations. The use is not medical offices or retail sales. It would be a patient service center for specimen collection. No doctors will be located at the site and no patient treatments will be provided at the site.
2. The applicant noted that the likely general hours of operation are 6am-4pm Monday through Friday, and Saturday 7am – noon. The applicant also noted that used needles and other medical waste will be properly collected and stored within the building until it is removed from the site.
3. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the

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site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.

4. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
5. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
6. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
7. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit #233 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Interior modifications shall be in accordance with the plans entitled:
 - o Quest Diagnostics, 557 Post Road, dated 5-5-03, by Cindy Design.
- B. Because of the nature of the use, and the fact that the space is located within the DB-2 commercial zone, and all activity is occurring indoors, the Commission does not limit the hours of operation.
- C. As represented by the applicant at the public hearing, this shall be a laboratory specimen collection site only. No medical treatments can occur on-site.
- D. All medical waste shall be stored within approved containers, and properly removed by a licensed medical waste handler.
- E. Final plans for the signage shall be reviewed and acted upon by the Architectural Review Board.
- F. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Darien Fire Marshal, and final approval of the hazardous waste disposal plan from the Darien Health Department.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false,

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deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- H. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (January 5, 2005). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final documents by the Chairman, and filing of the Special Permit form in the Darien Land Records.

The motion was made by Mrs. Forman, seconded by Mr. Spain. Voting in favor of the motion was Mrs. Forman and Misters Spain, Damanti and Conze. Mr. Bigelow abstained because he had not attended the Public Hearing and has not had an opportunity to review the audiotape of the Hearing. The motion was passed by a vote of 4 to 0 to 1.

Chairman Damanti read the following agenda item:

Land Filling & Regrading Application #113, John A. Callahan, 119 West Avenue. Proposing to remove existing railroad tie wall, construct a new stone wall, place fill behind that new stone wall and perform related site development activities.

The following motion was made: that the Commission waive the process of reading the entire draft Resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mrs. Forman, seconded by Mrs. Spain and unanimously approved. The following motion was then made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations contained within the Resolution:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 6, 2004**

Application Number: Land Filling and Regrading Application #113

Tax Assessor's Map #39 Lot #94

Name and Address of Property Owner: John A. Callahan
And Applicant: 119 West Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to remove existing railroad tie wall, construct a new stone wall, place fill behind that new stone wall and perform related site development activities.

Property Location: The subject property is located on the south side of West Avenue approximately 500 feet west of its intersection with Stony Brook Road.

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Zone: R-1/3 Zone

Date of Public Hearing: November 25, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2003

Newspaper: Darien News-Review

Date of Action: January 6, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
January 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct a stone wall in the front yard, about 1 to 1 ½ feet high, and then to fill and regrade the front yard using approximately six to eight cubic yards of material. Because the regrading would be located 15 feet of the property line, a Special Permit from the Planning & Zoning Commission is required. There are no drainage or safety issues involved with the regrading.
2. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
3. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling Application #113 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the plan submitted to the Commission.

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- B. Due to the minor nature of the project, the provision of a Performance Bond is hereby waived.
- C. During the filling and regrading project, the applicant shall utilize any additional measures as may be necessary due to site conditions. Those sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (January 5, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

The motion was made by Mrs. Forman, seconded by Mr. Spain. Voting in favor of the motion was Mrs. Forman and Misters Spain, Damanti and Conze. Mr. Bigelow abstained from voting because he had not attended the Public Hearing and had not had an opportunity to review the audiotape of the Hearing. The motion to approve the project was approved by a vote of 4 to 0 to 1.

Approval of Minutes
Minutes of September 23, 2003

The following motion was made: to adopt the minutes as presented. The motion was made by Mr. Bigelow, seconded by Mr. Conze and unanimously approved.

Minutes of October 28, 2003

The motion to approve the minutes was made by Mr. Bigelow, seconded by Mr. Conze and unanimously approved.

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Minutes of November 18, 2003

The motion to approve the minutes as presented was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

Minutes of November 25, 2003

The motion to adopt the minutes as presented was made by Mr. Spain, seconded by Mrs. Forman. Everyone voted in favor of the motion except Mr. Bigelow who had not attended the meeting and therefore abstained from voting on the minutes. The minutes were adopted by a vote of 4 to 0 to 1.

Any Other Business (requires two-thirds vote of Commission)

Mrs. Forman mentioned that the Traffic and Circulation Chapter of the new Plan of Development has been drafted and is in rough form. That draft mentions the possible parking garage at the Noroton Heights train station. It seems that some people have read that draft, and because it mentions the possibility of a parking garage, they assume that the policy of the Commission is to endorse the parking garage. The Commission members agreed with Mrs. Forman that the Commission has not adopted that or any policy and that the draft of the Traffic and Circulation Chapter is simply a working draft. It does not reflect any policy whatsoever. Mrs. Forman reiterated that the Commission must be very careful with the language used in any of the draft and final chapters of the Plan of Development because people obviously give substantial weight to what the Commission writes. She said that the Commission needs to be clear enough and where appropriate, to give examples, but the Commission needs to avoid being tied down to a particular statement in a draft form.

There being no other business, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning